



Washington State Executive Ethics Board

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PRELIMINARY INVESTIGATION AND BOARD DETERMINATION

CASE NUMBER: EEB 11-005
DATE: November 18, 2011
RESPONDENT: Jean Wheat
EMPLOYING AGENCY: Office of Minority and Women's Business Enterprises

I. BACKGROUND

A. Summary of Complaint

On January 29, 2011, the Executive Ethics Board (Board) received an anonymous complaint alleging that Jean Wheat the Acting State Certification Manager, IS and Administrative Support Manager for the Office of Minority and Women's Business Enterprises (OMWBE) may have violated the Ethics in Public Service Act, RCW 42.52 by using her position to provide a special privilege to family members. The Board initiated an investigation on March 11, 2011. The amended the complaint on November 18, 2011 to add a second allegation that Ms. Wheat used her position and state resources to provide a family member a special privilege and private benefit.

B. Scope

During the course of this investigation, Board staff reviewed the initial complaint, obtained records and documents from OMWBE and interviewed agency personnel.

C. Relevant Facts

Based on the preliminary investigation, the facts appear to be as follows:

1. Jean Wheat, for all times pertinent to this investigation, was employed by OMWBE in a management position. In December 2010, she supervised Management Analysts, Administrative and Office Assistant positions. In March 2009, she was the Systems Administrator and Administrative Support Manager.

2. On March 24, 2009, Ms. Wheat sent an email to all OMWBE staff requesting that employees donate shared leave to her daughter to cover the time between March 24, 2009 and July 27, 2009 so that her daughter could stay home due to a high-risk pregnancy. The email stated in pertinent part:

My daughter. . . [A]s you all are aware she is pregnant and was recently diagnosed with . . .
.[T]hese conditions can be fatal to her and her unborn baby. The doctors have asked her to

slow down until they feel it's safe to deliver the baby. She is in the beginning of her 5th month and we are hoping and praying she and the baby will make it until July 27th. She was recently approved from her office to receive shared leave beginning now.

My request from you is, would anyone be willing to share some leave with her to get her through this rough time. Any little bit will help and would be forever greatly appreciated. I have attached the form for you to use, if you would like to help.

3. During an agency staff meeting on December 6, 2010, staff raised the idea of adopting a family for the holiday for whom they would purchase gifts. This had been a practice of the agency in the past and staff agreed to do so.

4. Ms. Wheat announced that she knew of a family in need. The family consisted of a husband, wife and two minor children. Ms. Wheat did not reveal the name of the family at this time.

5. Ms. Wheat posted a list of requested gifts and agency personnel selected the gifts they wanted to buy for the family members. Staff purchased gifts on their own time and brought them to the agency. On December 20, 2010, staff wrapped the gifts during their lunch hour. Ms. Wheat and two OMWBE staff members delivered the gifts to the family.

6. On December 29, 2010, OMWBE received a note from Jason, Sarah, Branden and Alyssa thanking the OMWBE staff for the presents and their generosity. It was at this point that the Acting Director and other OMWBE staff found out that the family receiving the presents was actually Ms. Wheat's son, daughter-in-law and two grandchildren.

THE EXECUTIVE DIRECTOR, HAVING REVIEWED THE PRELIMINARY INVESTIGATION ABOVE, MAKES THE FOLLOWING

II. ANALYSIS

The Ethics in Public Service Act prohibits state employees from using their position to provide a special privilege to a family member. RCW 42.52.070 Special privileges states:

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

Ms. Wheat would have violated RCW 42.52.070 if she had used her position at OMWBE to provide a special privilege to her son and his family. There is ample evidence to support a finding that Ms. Wheat violated RCW 42.52.070 when she nominated a close family member to be adopted by her agency for the holidays. Further, Ms. Wheat is a manager of the largest section in OMWBE, with a salary of up to three times more than many of her subordinates, yet she still asked that these individuals purchase gifts for her son's family.

Ms. Wheat may have further violated this section by personally soliciting her co-workers and subordinates to donate shared leave to her daughter.

The Ethics Act also prohibits a state employee from using a state resource for the private benefit of another. RCW 42.52.160(1) states:

No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

Ms. Wheat would have violated RCW 42.52.160 if she had used any state resources for the private benefit of another. There is evidence to support a finding that Jean Wheat violated RCW 42.52.160(1) when she used her state computer to send an email personally soliciting co-workers and subordinates to donate shared leave to her daughter and attaching a form to complete the request.

III. RECOMMENDATION

WAC 292-100-050(2) provides that upon receipt of the Board staff's investigation report and recommendation, the Board shall determine whether or not there is reasonable cause to believe that a violation of chapter 42.52 RCW has occurred.

Based on the preliminary investigation, the Executive Director recommends that the Board enter a finding of reasonable cause to believe a violation or violations of RCW 42.52 have occurred, and the penalty may be more than \$500.



Melanie de Leon
Executive Director
Executive Ethics Board

IV. DETERMINATION

Based upon the above analysis and conclusions, and pursuant to RCW 42.52.420, we, the State of Washington Executive Ethics Board, determine the following:

Dismissal

- ☐ Any violation that may have occurred is not within the jurisdiction of the Board.
- ☐ The Complaint is obviously unfounded or frivolous
- ☐ Any violation that may have occurred does not constitute a material violation because it was:
 - ☐ Inadvertent and Minor
 - ☐ Cured

Reasonable Cause Determination:

- ☒ There IS reasonable cause to believe that a violation or violations of RCW 42.52.160 has been or is being committed.
- ☐ There IS NOT reasonable cause to believe that a violation of RCW 42.52.160 has been or is being committed.

V. POTENTIAL PENALTY

- ☒ We believe that one or more violations of RCW 42.52.160 may have occurred, and the penalty may be MORE THAN \$500.00.
- ☐ We believe that one of more violations of RCW 42.52.160 may have occurred, and the penalty may be LESS THAN \$500.00.

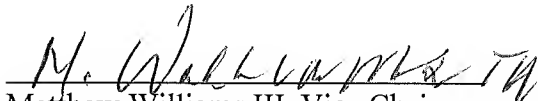
VI. CONCLUSION

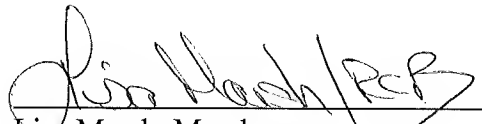
- ☐ This matter is hereby dismissed based upon the Dismissal Determination found above.
- ☒ Upon finding there IS reasonable cause to believe that violation(s) of RCW 42.52.160 have occurred, IT IS HEREBY ORDERED that the Executive Director of the Board schedule a public hearing on the merits of the complaint.
- ☐ Upon finding there IS reasonable cause to believe that violation(s) of RCW 42.52.160


have occurred and that penalty and costs no greater than \$500.00 will be assessed for these violations, IT IS HEREBY ORDERED that the Executive Director of the Board schedule a brief adjudicative proceeding under WAC 292-100-190 on the merits of the complaint.

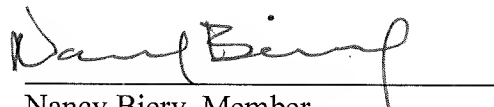
____ Upon finding there IS NOT reasonable cause to believe that violation(s) of RCW 42.52.160 have occurred, IT IS HEREBY ORDERED that the complaint is DISMISSED

DATED this 18th day of November, 2011.


Matthew Williams III, Vice Chair


Lisa Marsh, Member


Linnaea Jablonski, Member


Nancy Biery, Member